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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/661,986

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Harold Rosen

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8909

20991

7590

12/21/2005

THE DIRECTV GROUP INC

PATENT DOCKET ADMINISTRATION RE/R11/A109

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EL SEGUNDO, CA 90245-0956

EXAMINER

LY, NGHI H

ART UNIT

PAPER NUMBER

2686

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/661,986

Applicant(s)

ROSEN ET AL.

Examiner

Nghi H. Ly

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-15,17-21,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-15 and 17-21,23 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/07/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 4-15 and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perahia et al (US 6,188,896) in view of Durvasula et al (US 6,137,451).

Regarding claim 1, Perahia teaches a method of preventing interference in a communication system (see column 2, lines 58-61 and see column 4, lines 29-33) comprising, the steps of: generating a fixed reuse pattern in a service area from a high altitude communications device (see fig.6), the pattern having a plurality of first resource

Art Unit: 2686

cell and a second resource cell (also see fig.6) and reshaping the antenna surface (see column 5, lines 21-25, column 8, lines 16-20 and see column 12, lines 46-48).

Perahia does not specifically disclose the pattern having a plurality of first resource cell and a second resource cell having a resource different than the plurality of the first resource cells, selectively suppressing a side lobe of a first beam having a first resource by selectively reshaping the antenna surface at interference locations and maintaining a shape of the antenna in non-interference locations to form a suppressed portion and a non-suppressed portion so that the non-suppressed portion of the first beam aligns with other beams having the second resource cell and a side lobe suppressed portion aligns with the first resource.

Durvasula teaches the pattern having a plurality of first resource cell and a second resource cell having a resource different than the plurality of the first resource cells (see fig.1, footprints 40 and 44 and column 4, line 66 to column 5, line 5, see *"the feeds 30 and 32 are at the same frequency or at different frequencies, as well as at the same polarization or at different polarizations"*). In addition, Application specification page 2, lines 10-11, disclose *"beam having different system resources such as frequencies or polarizations"*), selectively suppressing a side lobe of a first beam having a first resource (see fig.5, beam 38 and beam 42) by selectively reshaping the antenna surface (column 2, lines 9-13, see *"the reflector has been shaped specifically for coverage"* and column 2, lines 13-30, see *"the reflector is reshaped to suppress"*) at interference locations (column 1, lines 39-52, see *"primary beam may interfere with the propagation of signals from the main lobe of the secondary beam"*). In Durvasula, the

Art Unit: 2686

interference locations are formed when two beams are interfered with each other) and maintaining a shape of the antenna in non-interference locations to form a suppressed portion and a non-suppressed portion (the teaching of Durvasula teaches sidelobe of only one beam is suppressed, the other is not, in addition, see fig.1, regions 40 and 44) so that the non-suppressed portion of the first beam aligns with other beams having the second resource cell and a side lobe suppressed portion aligns with the first resource (column 2, lines 9-13, see "*the reflector has been shaped specifically for coverage*" and column 2, lines 13-30, see "*the reflector is reshaped to suppress*". The teaching of Durvasula inherently teaches that after the reflector is reshaped, the non-suppressed portion will align with the second resource cell and side lobe suppressed portion will align with the first resource cell. In addition, see fig.1, regions 40 and 44, and beams 30 and 32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the teaching of Durvasula into the system of Perahia in order to reduce interference.

Regarding claim 4, Perahia further teaches the first resource and the second resource comprise a frequency (see column 4, lines 43-46, "frequency reuse").

Regarding claim 5, the combination of Perahia and Durvasula does not specifically disclose the first resource and the second resource comprise polarization.

However, polarization reuse is commonly used for resource reuse and therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention

Art Unit: 2686

was made to design a system so the first resource and the second resource comprise polarization.

Regarding claim 6, the combination of Perahia and Durvasula does not specifically disclose the first resource and the second resource comprise an orthogonal code. However, orthogonal code reuse is commonly used in CDMA system for resource reuse and therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to design a system so the first resource and the second resource comprise an orthogonal code.

Regarding claim 7, Perahia further teaches the high altitude communication device comprises a satellite (see fig.6).

Regarding claim 8, Perahia further teaches the high altitude communication device comprises a stratospheric platform (see fig.6, it is inherent that in the satellite-based system of Parahia include the system of stratospheric platform).

Regarding claim 9, claim 9 is rejected with a similar reason as set forth in claim 1 above.

Regarding claim 10, claim 10 is rejected with a similar reason as set forth in claim 7 above.

Regarding claim 11, claim 11 is rejected with a similar reason as set forth in claim 8 above.

Regarding claim 12, claim 12 is rejected with a similar reason as set forth in claim 4 above.

Art Unit: 2686

Regarding claim 13, claim 13 is rejected with a similar reason as set forth in claim 5 above.

Regarding claim 14, claim 14 is rejected with a similar reason as set forth in claim 6 above.

Regarding claim 15, claim 15 is rejected with a similar reason as set forth in claim 1 above.

Regarding claim 17, claim 17 is rejected with a similar reason as set forth in claim 1 above.

Regarding claim 18, claim 18 is rejected with a similar reason as set forth in claim 4 above.

Regarding claim 19, claim 19 is rejected with a similar reason as set forth in claim 5 above.

Regarding claim 20, claim 20 is rejected with a similar reason as set forth in claim 6 above.

Regarding claim 21, claim 21 is rejected with a similar reason as set forth in claim 1 above.

Regarding claim 23, Perahia further teaches generating a fixed reuse pattern comprises generating the fixed reuse pattern at a satellite (see column 1, lines 33-51 and column 9, line 61 to column 10, line 7).

Regarding claim 24, Perahia further teaches generating a fixed reuse pattern comprises generating the fixed reuse pattern a stratospheric platform (see column 1,

Art Unit: 2686

lines 33-51, column 9, line 61 to column 10, line 7 and see fig.6, it is inherent that in the satellite-based system of Parahia include the system of stratospheric platform).

### ***Response to Arguments***

4. Applicant's arguments filed 09/26/2005 have been fully considered but they are not persuasive.

On page 7 of Applicant's remarks, Applicant argues that Durvasula does not teach "the selective shaping".

The Examiner, however, disagrees. Durvasula does indeed teach the selective shaping (column 2, lines 24-27, see "*the reflector is shaped to suppress primary-beam sidelobes*" and "*the reflector is specially shaped with a surface contour which directs lobes of the primary beam in directions away from the axis of the secondary beam*".

That is, **only** the **primary-beam's sidelobes** is selected (**not the other**) and it reads on applicant's "the selective shaping").

On page 8 of Applicant's remarks, Applicant argues that Durvasula does not teach "**changing** the sidelobes".

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *changing the sidelobes*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).



On page 10 of Applicant's remarks, Applicant further argues that Durvasula does not teach "selectively performing side lobe suppression only for beams using a same communication resource" as recited in claim 21.

The Examiner, however, disagrees. Durvasula does indeed teach Applicant's claimed limitation (column 5, lines 2-4, see "the signals radiated by the feeds 30 and 32 are at the same frequency or at the different frequencies as well as at the same polarization or at different polarizations". In this case, Durvasula's "the same frequency" or "the same polarization" reads on Applicant's "a same communication resource". In addition, Applicant's specification fails to further define what a "communication resource" is. Therefore, Durvasula indeed teaches Applicant's claimed limitation with the broadest reasonable interpretation.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2686

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (571) 272-7911. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi H. Ly

*11/30/05*

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